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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,717	10/23/2001	Richard J. Knapp	387778.0089	3818

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McCarter & English, LLP
Financial Centre, Suite 304A
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EXAMINER

NGUYEN, TAN D

ART UNIT	PAPER NUMBER
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3629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/047,717

Applicant(s)

KNAPP, RICHARD J.

Examiner

Tan Dean D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed 11/24/06 has been entered. Claims 1-24 are pending and are rejected as followed. Claims 1-14, 22-24 are system claims. Claims 15-21 are method claims.

I. Claim Rejections - 35 USC § 112

1. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In independent claims 1, 15, and 22, especially in claim 15, it shows an e-palette "said e-palette ... and including parameters related to said e-palette, said parameters including a set of goods and a predetermined set of suppliers associated with said e-palette by said specifier". The limitation of the e-palette in the claims appear to be different from the specification which makes it vague and confusing. As shown on page 12 of the specification, the e-palette is "electronic representations of desired color palette(s)", lines 5-6, or "an e-palette generally includes sets of spectra data, e.g., reflectance, ...and/or associated image or texture map(s)". Figure 3, element 190 shows separate items or templates of "e-palettes", "supplier list", and "business data". Therefore, statement as shown in item (a) of claim 15, item (b) of claim 1, and item (c.) of claim 22, appear to be in error.

2. Claim 20 recites the limitation "information" and "entities" in line 2. There is insufficient antecedent basis for this limitation in the claim.

II. Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

II. Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 15-21, 1-14, 22-24 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over SHERRILL et al.**

As of 11/24/06, independent method claim 15 is as followed:

15. (Currently Amended) A method for facilitating communications between a specifier and one or more suppliers, said method comprising:

a) receiving an e-palette across a computer network at a server, said e-palette originating from a specifier workstation and including parameters related to said e-palette, said parameters including a set of goods and a predetermined set of suppliers associated with said e-palette by said specifier;

b) automatically communicating to said predetermined set of suppliers the existence of said e-palette at said server; and

c) permitting remote access to said e-palette by said predetermined set of suppliers at said server.

Similarly, **SHERRILL et al** discloses a method for facilitating communications between a specifier and one or more suppliers, said method comprising:

a) receiving an engineered color palette across a computer network at a server, said engineer color palette originating from a specifier workstation and including parameters related to said color palette, said parameters including a set of goods and a predetermined set of suppliers associated with said engineered color palette by said specifier; {see [0023], [0024], [0026], Fig. 4 or Fig. 6}

b) automatically communicating to said predetermined set of suppliers the existence of said engineered color palette at said server; {see [[0012], [0023], [0026 "*via the Internet*"... "*website*"], [0028]]} and

c) permitting remote access to said engineer color palette by said predetermined set of suppliers at said server {see [0012], [0028]}.

SHERRILL et al fair teaches the claimed invention except for the use of the term "e-palette" vs. "engineered color palettes" (or ECS palettes). However, the term "e-" in "e-palette" appears refer to electronic representation of desired color palette, and since the palette of SHERRILL et al is carried out on the Internet/website or electronically, therefore, the term "e-palette" is inherently included in the palette of SHERRILL et al. Alternative, since the ECS palettes are transferred via electronically (via the Internet), it would have been obvious to change the name of ECS palette in SHERRILL et al to e-palette if desired to indicate that the palette is carried out electronically.

As for dep. claim 16 (part of 15 above), which deal with well known color palettes parameters or features, these are well known and are taught in [0024, 0025, 0023].

As for dep. claims 17-20 (part of 15 above), which deal with well known effective and secure communication parameters between entities on the Internet or via website, these are well known and are taught in [Figs. 4, 6, 0026-0028]. Alternatively, the selection of well known effective and secure communication parameters between two entities such as restricting access, storing relevant information on database, etc., would have been obvious to a skilled artisan as mere implementing effective communications between several parties.

As for dep. claim 21 (part of 15 above), which deal with well known effective color communication parameters between entities on the Internet or via website, i.e. validating operation of color measuring equipment, this is taught in Fig. 6, (295).

As for system claims 1-14 and 22-24, which are merely system to carry out the method claims 15-21 respectively above, they are rejected over the system of SHERRILL et al to carry out the rejection of method steps claim 1 as cited above. Alternatively, the set up of a computer system to carry out the computer-implemented method claim 15 above would have been obvious to a skilled artisan.

Claims 2-24 (part of 1 above) and 23-24 (part of 22 above) which have similar limitations as in dep. claims 16-21 (part of 15 above), they are rejected for the same reasons set forth in the rejections of dep. claims 16-21 above.

7. Claims 15-21, 1-14, 22-24 are rejected (2nd time) under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over STONE et al.

As for independent method claim 15, as cited above, this is taught in Figs. 1, 4 and 6 and col. 4, lines 10-30 of STONE et al. As for the term “e-” in “e-palette” appears refer to electronic representation of desired color palette, and since the palette of STONE et al is carried out on the Internet/website or electronically, therefore, the term “e-palette” is inherently included in the palette of STONE et al. Alternative, since the color palettes are transferred via electronically (via the Internet), it would have been obvious to change the name of palette in STONE et al to e-palette if desired to indicate that the palette is carried out electronically.

As for dep. claim 16 (part of 15 above), which deal with well known color palettes parameters or features, these are well known and are taught in [Fig. 3, cols. 7-9].

As for dep. claims 17-20 (part of 15 above), which deal with well known effective and secure communication parameters between entities on the Internet or via website, these are well known and are taught in [Figs. 1-2, 9]. Alternatively, the selection of well known effective and secure communication parameters between two entities such as restricting access, storing relevant information on database, etc., would have been obvious to a skilled artisan as mere implementing effective communications between several parties.

As for dep. claim 21 (part of 15 above), which deal with well known effective color communication parameters between entities on the Internet or via website, i.e. validating operation of color measuring equipment, this is taught in Fig. 9, (295).

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As for system claims 1-14 and 22-24, which are merely system to carry out the method claims 15-21 respectively above, they are rejected over the system of STONE et al as shown in Figs. 1, 2, 3, 9 of STONE et al to carry out the rejection of method steps claim 1 as cited above. Alternatively, the set up of a computer system to carry out the computer-implemented method claim 15 above would have been obvious to a skilled artisan.

Claims 2-24 (part of 1 above) and 23-24 (part of 22 above) which have similar limitations as in dep. claims 16-21 (part of 15 above), they are rejected for the same reasons set forth in the rejections of dep. claims 16-21 above.

No claims are allowed.

Response to Arguments

8. Applicant's arguments, see response, filed 11/24/06, with respect to the 103 rejections of AAPA /Van Aken et al have been fully considered and are persuasive. The rejections of claims 1-24 have been withdrawn. However, new rejections have been applied.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

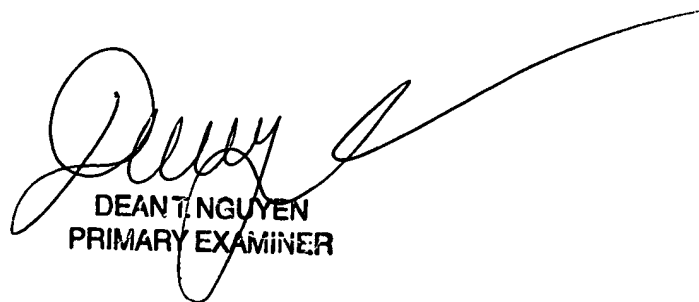
In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss can be reached at (571) 272-6812.

The main FAX phone numbers for formal communications concerning this application are (571) 273-8300. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn
February 19, 2007



DEAN T. NGUYEN
PRIMARY EXAMINER